



July 6, 2020

By ECF

Honorable Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street, Room 2550
New York, New York 10007

Re: *Patricia Cummings v. The City of New York, et al.*, 19-cv-07723 (CM)

Dear Judge McMahon:

We are counsel for defendants Daily News L.P. and Ben Chapman (the “Daily News Defendants”) in the above-captioned action and write on behalf of all defendants to correct factual misstatements in the letter motion submitted by Plaintiff’s counsel to this Court on July 3, 2020. *See* ECF No. 116 (“Ltr.”).

In his letter motion, Plaintiff’s counsel represents that on June 3, 2020, he received a communication from counsel for Andre Perry and The Hechinger Report requesting an extension of time to file their motion to dismiss Plaintiff’s amended complaint, to which he consented. *See* Ltr. at 1. Plaintiff’s counsel then claims that the moving papers for all other defendants were due on June 11, 2020 as “[n]o Defendant, other than Defendants, Andre Perry and The Hechinger Report, requested or were granted an extension of time to respond to the Plaintiff’s pleadings” and asserts that these papers are “rejected by the Plaintiff.” *Id.* at 2. But Plaintiff’s version of these events is belied by his correspondence with counsel for Andre Perry and The Hechinger Report, the letter motion requesting an extension that was filed with this Court on June 3, 2020, and the memo endorsement from this Court dated June 10, 2020.

On June 2, 2020, Joseph Lawlor, counsel for Andre Perry and The Hechinger Report emailed Plaintiff’s counsel stating, “[t]he defendants in this matter are requesting a two-week extension of their time to respond to the Amended Complaint. Please confirm that you consent to this request.” *See Exhibit A.* In no way was this request limited to defendants Andre Perry and the Hechinger Report. On June 3, 2020, Lucia Ciaravino at The Law Offices of Thomas F. Liotti responded “[w]e would certainly consent to a two week extension of time to respond to the Amended Complaint.” *Id.* Accordingly, on June 3, 2020, Mr. Lawlor filed a letter motion with this Court—in which he explicitly noted that he was writing “*on behalf of all appearing defendants*”—and requested an extension of time until June 25, 2020 for all defendants to respond

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to Plaintiff's amended complaint. *See* ECF No. 101. On June 10, 2020, this Court issued a memo endorsement granting the extension requested in Mr. Lawlor's letter motion. *See* ECF No. 103. Accordingly, any suggestion that all defendants did not request or were not granted an extension of time to respond to the amended complaint is patently incorrect.

While defendants do not object to Plaintiff's requested extension of time to file opposition papers, defendants note that, once again, Plaintiff's counsel failed to follow Your Honor's Rule I.D.2 and did not contact defendants' counsel prior to submitting his request to the Court.

Thank you for the Court's attention to this matter.

Respectfully submitted,

/s/ James Rosenfeld

James Rosenfeld

cc: Counsel of Record (via ECF)

EXHIBIT A

From: Lucia Ciaravino <lucia@tliotti.com>
Sent: Wednesday, June 03, 2020 3:06 PM
To: Lawlor, Joseph
Subject: RE: Cummings v. The City of New York et. al., 19-CV-7723-CM

EXTERNAL: Sent from outside haynesboone

Mr. Lawlor,

I apologize for not responding to you sooner. We are working remotely, and your e-mail was not forwarded to me until just recently. We would certainly consent to a two week extension of time to respond to the Amended Complaint.

You can copy me on any future e-mails to our office.

Thank you.

Lucia

Lucia Maria Ciaravino, Esq.
The Law Offices of Thomas F. Liotti
600 Old Country Road, Suite 530
Garden City, New York 11530
Phone: (516) 794-4700
Fax: (516) 794-2816
e-mail: lucia@tliotti.com

From: Ellen Luxmore [mailto:eluxmore@yahoo.com]
Sent: Wednesday, June 3, 2020 2:16 PM
To: Lucia Ciaravino <lucia@tliotti.com>
Subject: Fw: Cummings v. The City of New York et. al., 19-CV-7723-CM

[Sent from Yahoo Mail for iPad](#)

Begin forwarded message:

On Wednesday, June 3, 2020, 12:31 PM, Lawlor, Joseph <Joseph.Lawlor@haynesboone.com> wrote:

Thomas,

Please let us know whether you consent. We intend to file our extension this afternoon.

Best,

Joe



Joe Lawlor | Associate
joseph.lawlor@haynesboone.com | (t) +1 212.659.4985

From: Lawlor, Joseph
Sent: Tuesday, June 2, 2020 9:36 AM
To: 'tom@tliotti.com' <tom@tliotti.com>; 'eluxmore@yahoo.com' <eluxmore@yahoo.com>
Cc: Rochford, Richard <Richard.Rochford@haynesboone.com>
Subject: Cummings v. The City of New York et. al., 19-CV-7723-CM

Thomas,

The defendants in this matter are requesting a two-week extension of their time to respond to the Amended Complaint. Please confirm that you consent to this request – we ask that you respond by COB today.

Best,

Joe



Joe Lawlor
Associate
joseph.lawlor@haynesboone.com

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